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Paper No. 13

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**JUN 09 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Jacson Liu :  
Application No. 09/187,197 : **ON PETITION**  
Filed: November 3, 1998 :  
Attorney Docket No. MVIP0005USA :

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2004, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

This application became abandoned for failure to timely reply to the Office action mailed September 22, 2003, which set a thirty (30) day period to reply. Accordingly, this application became abandoned on October 23, 2003. A Notice of Abandonment was mailed on May 3, 2004.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) the required reply, unless previously filed.  
In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application, abandoned or lapsed for failure to pay

the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition does not satisfy requirement (1) above.

The required reply has not been submitted. Accordingly, the petition must be dismissed.

Please note, the showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993).

Furthermore, a copy of the September 22, 2003 Office action is attached for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail:           Mail Stop Petition  
                  Commissioner for Patents  
                  Box 1450  
                  Alexandria, VA 22313

By FAX: (703) 872-9306  
Attn: Office of Petitions

By hand: Customer Service Window  
2011 South Clark Place  
Crystal Plaza Two (left side entrance of building)  
Arlington, VA

Telephone inquiries should be directed to the undersigned at  
(703) 306-9200.

A handwritten signature in dark ink, appearing to read 'EJ Tannouse', followed by a horizontal line.

Edward J. Tannouse  
Petitions Attorney  
Office of Petitions  
United States Patent and Trademark Office

Attachment:  
September 22, 2003 Office Action